

Poland

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Freedom of the Press

The media in Poland remained largely free in 2013, though they continued to face problems such as the use of defamation suits against journalists. While the constitution protects freedom of speech and the press, libel and some forms of insult—including defamation of public officials or the state and statements that offend religious beliefs—are criminal offenses punishable by fines and imprisonment. The number of defamation suits brought annually by government officials and public figures against news media and one another has increased dramatically over the last decade, but courts ruled in favor of defendants in several high-profile cases in 2013. In January, an appeals court confirmed that Foreign Minister Radosław Sikorski need not apologize or pay compensation to businessman Jan Kobyłański, a backer of the ultraconservative Radio Maryja, whom Sikorski called an anti-Semite in an interview with journalist Łukasz Warzecha. In November, an appeals court overturned a controversial first-instance judgment against two journalists from the local weekly *Kurier Ślupecki*, both of whom were accused of defaming the deputy marshal of the Sejm (the lower parliamentary chamber) by writing that he had used his party's campaign funds to support his son's company in 2011.

However, fresh cases continued to be filed in 2013. In early May, Transportation Minister Sławomir Nowak sued the magazine *Wprost* over an April 2013 story describing Nowak's close friendships with businessmen who often win government contracts. The article also accused Nowak of accepting and failing to declare expensive gifts—most notably a watch worth over 17,000 zloty (\$5,000). Nowak initially demanded that *Wprost* spend more than 30 million zloty (\$9.4 million) to publish formal apologies in various media. In response to widespread public criticism, he dropped the monetary component of his lawsuit, stating that the magazine had defamed him in order to promote “certain interests” and that he did not want their “dirty money.” The publisher of *Wprost* responded by bringing a countersuit against Nowak in late July. *Wprost* also demanded an apology from CAM Media—a public relations firm with major government contracts whose director was described in the April article as a close friend of Nowak's. According to *Wprost*, CAM spread “baseless accusations” that the magazine's statements about Nowak had been aimed at manipulating the price of *Wprost* shares.

Recent years have featured efforts to apply libel legislation to nonjournalistic online content. In 2010, the mayor of Mosiny, Zofia Springer, brought a defamation suit against blogger Łukasz Kasprowicz, who called Springer “a liar” and accused her of “coerc[ing] public officials into lawlessness with threats.” In a decision that was widely condemned by human rights and media freedom organizations, a first-instance court in Poznań sentenced Kasprowicz to 10 months of restricted liberty and 30 hours of community service per month during that period. He was also instructed to apologize publicly and withdraw from journalism for one year. The sentence was appealed and reversed later in 2011 on the grounds that Kasprowicz had aired his criticism as a blogger and private citizen, not as a journalist, and was therefore entitled to use even harsh language to express opinions about elected officials. The ruling pointed to the existence of a “societal consensus” that online commentary may be “more emphatic” than language used in the professional media; Kasprowicz's words were thus deemed “non-damaging.” Springer's lawyers challenged the court's arguments, and after two more rounds of appeals, the Supreme Court in November 2013 returned the case for reconsideration by a lower court. A final judgment was expected in 2014.

In January 2013, an appeals court in Łódź dismissed defamation charges against Robert Frycz, the creator of a website dedicated to satirizing President Bronisław Komorowski. The previous year, a first-

instance court had sentenced Frycz to 15 months of restricted liberty and 600 hours of community service under an article of the penal code that forbids defamation of the president. In its 2013 decision, the appeals court argued that high-ranking public figures are not easily damaged by public criticism. However, the court upheld a secondary charge against Frycz related to falsification of identification documents. For that offense he was sentenced to one year of restricted liberty and 30 hours of community service.

In late November, a first-instance court convicted TVP television reporter Endy Gęsina-Torres of committing perjury and falsifying documents in the course of an investigation for which he had posed as a Cuban refugee attempting to cross the border from Belarus into Poland. Taking into account the motives behind the deception, the Białystok district court did not give Gęsina-Torres a prison sentence, as is common in cases of document fraud; instead, he was fined 2,000 zloty (about \$630), which was donated to a charitable foundation. Nevertheless, most media criticized the judge for failing to place journalistic freedom and the public interest ahead of citizens' responsibility to be truthful with state officials.

Article 196 of the penal code bans actions that offend religious feelings or sentiment. There have been relatively few investigations or charges under Article 196 in recent years, but the so-called blasphemy law remains a highly criticized constraint on freedom of expression in Poland. In 2012, pop star Dorota "Doda" Rabczewska was fined 5,000 zloty (\$1,500) for violating Article 196 during a 2009 television interview. An appeal in the case against Adam Darski, a musician accused of offending religious feelings during a concert in 2007, was set to be adjudicated in 2014 after Darski was acquitted for a second time in June 2013. He was originally acquitted in August 2011, but the verdict was appealed and brought before the Supreme Court, which triggered a reexamination of the case by ruling in October 2012 that a person may be found guilty of offending religious sensibilities even if he did not "directly" intend to do so.

The right to information is protected by Article 61 of the constitution and the Act on Access to Public Information, passed in 2001 and amended in 2011 to bring Poland into line with EU regulations. A December 2013 report by the Polish Open Government Coalition found a number of problems with the implementation of the act, citing inconsistent enforcement across different government bodies, unjustified processing delays, and loosely regulated interpretations of what constitutes public information.

The National Broadcasting Council (KRRiT), whose members are selected by the president, the Sejm, and the Senate, has the power to regulate programming, allocate subscription revenues to public media, distribute broadcasting frequencies and licenses, and impose financial penalties on broadcasters. Although KRRiT members are required to suspend their membership in political parties, the council has always been a highly politicized body. In January 2012, the KRRiT refused to grant a digital broadcasting license to TV Trwam, an ultraconservative television station linked to the opposition Law and Justice (PiS) party, citing concerns about the transparency of its funding. Polish ombudsman Irena Lipowicz brought the matter before the Constitutional Tribunal (TK), which postponed a ruling on the case in 2013. In the meantime, Trwam was able to secure a digital broadcasting license in a second tender held in July 2013.

Standards accepted by professional media associations emphasize objectivity in reporting, but the culture of journalism in Poland remains highly partisan. In 2012, Grzegorz Hajdarowicz, owner of the well-known conservative daily *Rzeczpospolita*, fired the paper's editor in chief, its internal affairs editor, and the author of a controversial article alleging the presence of explosive materials at the scene of the 2010 plane crash that killed President Lech Kaczyński and scores of Polish dignitaries near Smolensk, Russia. The firings were criticized by the European Federation of Journalists as a violation of the rights of media workers. Hajdarowicz is also an owner of *Uważam Rze*, a popular right-wing weekly. That paper's editor in chief was also fired after he criticized Hajdarowicz and refused to ban the *Rzeczpospolita* article's author, Cezary Gmyz, from contributing to *Uważam Rze*. As a result, a number of journalists left both *Uważam Rze* and *Rzeczpospolita* to form a new weekly, *W Sieci* (meaning "in the network"). In 2013, Hajdarowicz's company sued the owners of *W Sieci* for copyright infringement in their publication's name, which

resembles the name of a website (“W Sieci Opinii,” or “in the network of opinion”) that links to the online editions of Hajdarowicz’s publications. At first, a court instructed the owners of *W Sieci* to change the name to *Sieci*, but the publication won the right to use its original name in August. In the first quarter of 2013, *Rzeczpospolita* recorded a 24.5 percent decline in sales from the previous year—the largest drop of all of Poland’s major print dailies. By May 2013, sales of *Uważam Rze* had dropped even more dramatically, from 148,000 copies the previous year to approximately 14,000—a difference of 90 percent.

The government does not directly censor media in Poland, and all forms of media are generally free to investigate and report on political matters. However, indirect censorship does exist, with pressure from political figures—including the potential threat of legal action—leading to self-censorship. The Helsinki Foundation for Human Rights notes that local media in Poland are much more vulnerable than nationwide outlets to legal reprisals by local authorities. They are also vulnerable to being edged out of the market when local governments establish their own newspapers and compete with them for advertising. Physical attacks are rare, however, and no violence against journalists was recorded in 2013.

Polish print media and radio outlets are predominantly private and highly diversified in terms of ownership. While coverage can be partisan, a range of opinions are expressed, and outlets do criticize all groups along the political spectrum, even the ones with which they are aligned. According to the European Journalism Centre, German and other foreign owners control approximately 80 percent of the Polish media market. The only major domestic competitor is Agora SA. The public television broadcaster TVP, which runs a number of terrestrial and satellite channels, remains an important source of information for most citizens. It has been reported that only one in three households actually pays the mandatory subscription fee collected from radio and television owners to support public broadcasting. Following the emergence of the European sovereign-debt crisis in 2009, many media companies were forced to cut spending and lay off employees due to financial constraints. Poland’s television advertising market remained weak in 2013, but digital advertising continued to grow and bring income to media companies. Roughly 63 percent of the population had regular internet access in 2013, and the medium is not restricted by the government.

2014 Scores

Press Status

Free

Press Freedom Score

(0 = best, 100 = worst)

27

Legal Environment

(0 = best, 30 = worst)

9

Political Environment

(0 = best, 40 = worst)

Economic Environment

(0 = best, 30 = worst)